

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IN RE APPLICATION OF: BECTON)	3:15-cv-00233-HDM-WGC
DICKINSON GmbH AND BECTON)	
DICKINSON AUSTRIA GmbH FOR THE)	
TAKING OF THOMAS C. KURACINA'S)	ORDER
DEPOSITION AND FOR THE PRODUCTION)	
OF DOCUMENTS FROM THOMAS C.)	
KURACINA AND INJECTIMED INC., FOR)	
USE IN A FOREIGN PROCEEDING UNDER)	
28 U.S.C. § 1782(a))	
_____)	

Before the court is petitioner Becton Dickinson GmbH and Becton Dickinson Austria GmbH's ("Becton Dickinson") motion to reconsider (#34). Respondent Thomas C. Kuracina and Injectimed, Inc. ("Kuracina") filed an opposition (#36).

On July 21, 2015, following oral argument on respondent's motion to quash (#8), the court issued an order that, in part, granted a blanket protective order permitting Kuracina to designate sensitive documents and restricting their disclosure or further use beyond this action. On August 14, 2015, Becton Dickinson filed an emergency motion to de-designate documents marked confidential (#14). Due to the unusual nature of the case the court directed Kuracina to file his response on an expedited basis. The court denied the motion on August 19, 2015 (#32). Becton Dickinson moves the court to reconsider that order.

1 A district court has inherent jurisdiction to modify, alter,
2 or revoke a prior order. *United States v. Martin*, 226 F.3d 1042,
3 1049 (9th Cir. 2000). Reconsideration of a prior order "is
4 appropriate if the district court (1) is presented with newly
5 discovered evidence, (2) committed clear error or the initial
6 decision was manifestly unjust, or (3) if there is an intervening
7 change in controlling law." *Sch. Dist. No. 1J v. AcandS, Inc.*, 5
8 F.3d 1255, 1263 (9th Cir. 1993). The Ninth Circuit has also
9 instructed that "[t]here may be other, highly unusual,
10 circumstances warranting reconsideration." *Id.* Reconsideration of a
11 prior order is an extraordinary remedy, to be used sparingly in the
12 interests of finality and conservation of judicial resources. *Kona*
13 *Enters. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000).

14 The court finds that such unusual circumstances exist in this
15 case. To facilitate the consideration of the emergency motion
16 (#14), Becton Dickinson did not have an opportunity to file a reply
17 to Kuracina's response to the motion. In his response, Kuracina
18 articulated those portions of the documents Becton Dickinson sought
19 to de-designate that Kuracina argued should remain subject to the
20 court's blanket protective order. Becton Dickinson now seeks to
21 respond to Kuracina's concerns for confidentiality, as articulated
22 in his response, by de-designating only those portions of the
23 exhibits not objected to by Kuracina's response and redacting all
24 other portions of the exhibits.

25 The court concluded in its August 19, 2015, order, that
26 "[Becton Dickinson] has made an insufficient showing that the need
27 for discovery of *all of the material* contained in the subject
28 documents outweighs [Kuracina]'s need for confidentiality." (#32 at

1 2:3-6) (emphasis added). Due to the nature of the case and the
2 truncated briefing schedule, the court was unable to consider any
3 reply Becton Dickinson may have had to address the concerns of
4 Kuracina as expressed in Kuracina's response brief, and which the
5 court might expect to see in a reply brief. The court was mindful
6 of the potential issue when it referred to the need for "all of the
7 material" contained in the documents in balancing the need for
8 discovery against the need for confidentiality.

9 After reviewing the contents of Exhibit A, submitted with the
10 motion for reconsideration, and which redacts those portions of the
11 documents which Kuracina argued should remain confidential in his
12 answering brief, the court is persuaded that the interests of
13 justice are best served by granting the motion for reconsideration.
14 Accordingly, the motion for reconsideration (#34) is **GRANTED**; the
15 documents in redacted form as set forth in Becton Dickinson's
16 motion for reconsideration shall be de-designated and removed from
17 the blanket protective order of the court. Kuracina's request for
18 attorneys' fees is denied.

19 IT IS SO ORDERED.

20 DATED: This 4th day of September, 2015.

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23 UNITED STATES DISTRICT JUDGE
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